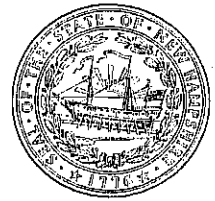




The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

January 14, 2010

The Honorable Mary Beth Walz, Chairman
N.H. House of Representatives
Local and Regulated Revenues Committee
Legislative Office Building, Room 303
Concord, New Hampshire 03301

Re: HB 1439 – relative to tax exemptions for water and air pollution control installations

Dear Chairman Walz and Members of the Committee:

Thank you for the opportunity to comment on behalf of the Department of Environmental Services (DES) on HB 1439, which seeks to amend RSA 72:12-a, the statute that authorizes DES to grant exemptions from local property taxes for air and water pollution control devices, to make clear that private sewage disposal or treatment systems are not eligible for the exemption. DES requested this bill and supports it with the amendment that we understand will be introduced by the sponsors today, specifically, replacing the bill as introduced with the following bolded addition to the second sentence in RSA 72:12-a, I: **This paragraph shall not apply to privately-owned landfills or ancillary facilities located at such landfills or to sewage disposal systems installed pursuant to RSA 485-A:29-44 and rules adopted pursuant thereto, except that any exemption for a sewage disposal system granted prior to January 1, 2010 shall remain in effect.**

RSA 72:12-a makes eligible for an exemption from local property taxes “any person” who installs “any treatment facility, device, appliance or installation wholly or partly for the purpose of reducing, controlling, or eliminating any source of air or water pollution”. Over the years, DES has granted tax exemptions to various industrial, commercial and institutional facilities for large or complex air or water pollution control facilities.

In 2009, DES received an application for a tax exemption for an individual sewage disposal system. The application was denied because DES did not believe that the Legislature intended that septic systems serving private residences would be eligible for a pollution control tax exemption, and it found that there was no public benefit arising from granting a tax exemption for a private septic system. This determination is now on appeal to the New Hampshire Supreme Court, with a decision expected later this year. DES believes that its denial is based on a legally sound interpretation of RSA 72:12-a and prior case law. Nevertheless, it is possible that the Supreme Court could rule otherwise.

The purpose of HB 1439 as introduced, and as amended, is to explicitly state in RSA 72:12-a that it does not apply to sewage disposal systems installed pursuant to the State’s water pollution law, RSA 485-A. If this amendment were not adopted and if the Supreme Court were to rule against DES in the pending case, there would be hundreds of thousands of property owners who would be eligible to apply for and receive tax exemptions for their private septic

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systems. This would result in significant reductions in local property tax revenues in municipalities across the state, with no commensurate environmental benefit. Accordingly, we urge prompt enactment of HB 1439, as amended.

Thank you again for the opportunity to offer our support for HB 1439, as amended. Please contact me at 271-2958 or Assistant Commissioner Michael Walls at 271-8806 if you have any questions or would like further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas S. Burack". The signature is fluid and cursive, with the first name "Thomas" and last name "Burack" clearly distinguishable.

Thomas S. Burack
Commissioner

cc: Representative L. Webb
Representative A. Peterson